

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JOHN THOMAS FALVEY,

Plaintiff,

v.

BARACK HUSSEIN OBAMA, *et al.*,

Defendants.

Case No. 3:23-cv-00118-MMD-CSD

ORDER

Pro se Plaintiff John Thomas Falvey brings this action under 42 U.S.C. § 1983. Before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Craig S. Denney (ECF No. 7), recommending that the Court dismiss this action without prejudice and administratively close this case. Plaintiff had until May 24, 2023, to file an objection. To date, no objection to the R&R has been filed. For this reason, and as explained below, the Court adopts the R&R, and will dismiss this action without prejudice.

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Because there is no objection, the Court need not conduct *de novo* review; it is satisfied Judge Denney did not clearly err. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003); Fed. R. Civ. P. 72, Advisory Committee Notes (1983).

Here, Judge Denney recommends dismissing this action under Federal Rule of Civil Procedure 41(b) and Local Rule IA 3-1 because (1) Plaintiff has failed to timely file a notice indicating a change in his contact information, and (2) he has not paid the filing fee, filed an application to proceed *in forma pauperis*, or otherwise indicated his intent to continue prosecuting this action. (ECF No. 7 at 2-3.) *See also* Fed. R. Civ. P. 41; LR IA 3-1 (requiring an attorney or *pro se* party to “immediately” notify the Court of any changes

1 in contact information, and authorizing “dismissal of the action . . . or other sanctions as
2 deemed appropriate by the court” if a party fails to comply); *Carey v. King*, 856 F.2d 1439,
3 1440 (9th Cir. 1998) (outlining a five-factor test to apply in determining whether to dismiss
4 a *pro se* plaintiff’s action under Rule 41(b)); *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th
5 Cir. 2002) (“It is incumbent upon the Court to manage its docket without being subject to
6 routine noncompliance of litigants[.]”) (citation omitted). In weighing the five *Carey* factors,
7 Judge Denney concluded that most factors weigh in favor of dismissal under Rule 41(b)
8 as well as Local Rule IA 3-1. (*Id.* at 3.) The Court agrees with Judge Denney. Having
9 reviewed the R&R and the record in this case, the Court will adopt the R&R in full.

10 It is therefore ordered that Judge Denney’s Report and Recommendation (ECF
11 No. 7) is accepted and adopted in full.

12 It is further ordered that this action is dismissed without prejudice.

13 It is further ordered that the Clerk of Court close this case.

14 DATED THIS 30th Day of May 2023.

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18 MIRANDA M. DU
19 CHIEF UNITED STATES DISTRICT JUDGE
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